

REMARKS

Claims 1- 15 are pending in this application. By this Amendment, claims 1, 14 and 15 are amended. Support for the amendment to claim 1 can be found, for example, in the specification, page 12, paragraph [0003].

Applicant appreciates the indication of allowable subject matter in claims 2, 9 and 12.

I. Election / Restriction Requirement

With regard to the Election of Species, Applicant's respectfully submit that there exists *a priori* unity of invention with respect to claims 1-15, by virtue of the fact that claims 2-15 variously depend from claim 1. As stated in Chapter 10.6 of the ISPE (*International Search and Preliminary Examination Guidelines*):

Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (Rule 6.4).

Therefore, each dependent claim shares at least each element or technical feature of independent claim 1. ISPE 10.7 further provides:

If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.

Thus, for the present application, a lack of unity of invention may only be determined *a posteriori*, or in other words, after a search of the prior art has been conducted and it is established that all the elements of the independent claim are known. See ISPE 10.7 and 10.8.

The Office Action does not establish that each and every element of independent claim 1 is known in the prior art. Therefore, Applicants respectfully submit that lack of unity

of invention has not been established, and thus an election of species requirement at this time is improper.

II. Claim Rejections - 35 U.S.C. §112

The Office Action rejects claims 14 and 15 under 35 U.S.C. §112, second paragraph.

Claims 14 and 15 have been amended responsive to the Examiner's suggestion.

Applicant respectfully requests the rejection be withdrawn.

III. Claim Rejections - 35 U.S.C. §102

The Office Action rejects claims 1, 4, 5, 7 and 11 under 35 U.S.C. §102(b) over Brainard (U.S. Patent No. 5,281,007). The rejection is respectfully traversed.

With respect to claim 1, Brainard does not teach that the brake valves for braking the mobile work tool are individually operable by the driver of the mobile work tool.

Brainard teaches a two-step operating procedure by which the apply-and-release valve 40 is always operated before the second apply valve 50. More specifically, Brainard teaches energizing the apply-and-release valve 40 (col. 3, lines 64-65) sequentially followed by the operation of the second apply valve 50 if additional pressure is needed (col. 4, lines 15-18), after which, the apply-and-release valve 40 can be deactivated (col. 4, lines 30-33).

Optionally, Brainard teaches that after the apply-and-release valve 40 is operated, the second apply valve 50 can be controlled by an external sensor responsive to height, load, or grade (col. 4, lines 46-50).

Regardless, the apply-and release valve 40 is operated first to apply lower pressure braking, followed by the operation of the second apply valve 50. Therefore, the second apply valve 50 is not individually operable because it is always operated after the apply-and-release valve 40. Thus, Brainard does not teach that the brake valves for braking the mobile work tool are individually operable by the driver of the mobile work tool, as recited in independent claim 1.

Applicant respectfully requests the rejection be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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